

[REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code. The information submitted indicates that you were incorporated in the State of [REDACTED] on [REDACTED]. Your articles of incorporation contain a general section 501(c)(3) purposes limitation, and also a section 501(c)(3) dissolution provision.

Your articles enumerate the following six specific purposes:

- a. To organize, maintain, insure, curate and care for the [REDACTED], including related materials and documentation (the "Art Collection");
- b. To lease or purchase property and equipment for office, storage, maintenance and exhibition of the Art Collection;
- c. To promote and arrange exhibitions of the Art Collection in art galleries, museums and art centers;
- d. To produce catalogues, publications, video tapes and other media documenting the Art Collection, the [REDACTED], and other special projects funded by the corporation;
- e. To place the Art Collection in permanent collection with a museum or university at some future time, if such placement is advisable, in the discretion of the Corporation's board of directors, to ensure the continued maintenance and care of the Art Collection, along with funds in trust for the continued maintenance of the Art Collection, if necessary, in the discretion of the board of directors.
- f. To fund, administer and participate in projects by individual artists and other art organizations anywhere in the world that are of interest to the Corporation; provided that artists receiving any support from the

Corporation fulfill certain public service obligations established by the Corporation.

The first activity that you will engage in will involve activities in connection with the approximately [REDACTED] works created by [REDACTED], which have a total estimated value of [REDACTED]. You will take possession of the collection, but you will not assume ownership of the works in the collection. [REDACTED] will retain the copyrights on all of these works.

You will rent space for housing the collection. You will be responsible for the preservation of the collection, its storage, cataloging, publicizing and periodic exhibition. The collection will not be available to the public on a regular basis. You will offer [REDACTED] works for exhibition to university galleries, museums, and art centers. A rental fee based on expenses plus 10% will be requested. You may in the future sell video tapes, catalogues, and other documentation of the works of [REDACTED]. Later, you may also acquire other artist's bodies of work, also for the purpose of preservation and increasing public awareness of such works.

Later, you hope to establish a program of artist fellowships, co-produce and support visual arts projects, and establish a program for granting scholarships to university students. To date, you have received no income, but anticipate that initially all income will be provided by [REDACTED]. You will at some future date solicit funds from other sources. Your expenses will be those associated with your stewardship of the collection. You are governed by a six member board of directors, one of whom is [REDACTED].

Section 501(c)(3) of the Internal Revenue Code provides in part for the exemption from Federal income tax for organizations organized and operated exclusively for charitable or educational purposes.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if

more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more of the purposes specified unless it serves a public rather than a private interest. Thus it is necessary for such organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such interests.

The fact that [REDACTED] continues to retain ownership and all rights to the collection of [REDACTED] works that you will assume stewardship of, causes your effort to preserve, display, and publicize the collection to result in private benefit to her, as she will be the beneficiary of any rise in the value of the collection resulting from your efforts. Additionally, her position on the board of directors will enable her to exert considerable influence on efforts to make the collection more widely known, consequently increasing the value of [REDACTED] art holdings and rights to those holdings, resulting in private benefit to her. Also, benefit to the public is diminished by lack of regular public access to the collection.

As your operations as described will result in substantial private benefit to [REDACTED], you do not meet the requirements of section 1.501(c)(3)-1(c)(1) of the regulations, as more than an insubstantial part of your activities will not be in furtherance of an exempt purpose. Also, as you have not established that you are not organized or operated for the benefit of private interests as is required by section 1.501(c)(3)-1(d)(ii) of the regulations, you do not meet the requirements of that provision. Accordingly, you do not qualify for recognition of exemption under section 501(c)(3) of the Code.

Contributions to you are not deductible under section 170 of the Code. You are required to file income tax returns on Form 1120.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be

represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Procedures.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the United States Tax Court, the United States Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,